

1958

August 28

Mr. James W. Nelson
Deputy Commissioner
Bank Commission
State House
Concord, New Hampshire

Dear Mr. Nelson:

This is in response to your letter of August 25, 1958 in which you ask whether bonds issued by the Grace Line, Inc., under an indenture with the Chemical Corn Exchange Bank and insured under the Merchant Marine Act, 1936, (46 U.S.C.A. 1271 - 1279), are legal investments for savings banks under RSA 387:6, I as follows:

"387:6 Public Obligations. The following described securities are legal investments:

"I. United States. The obligations of the United States of America, or those for which the faith and credit of the United States is pledged to provide for the payment of interest and principal."

These obligations if they are to qualify must qualify under the second part of this paragraph as obligations "for which the faith and credit of the United States is pledged to provide for the payment of interest and principal". We construe this as requiring the equivalent of an unconditional guarantee for the payment of principal and interest by the United States of America.

Under 46 U.S.C.A. 1275, in the event of notification by the Secretary of Commerce that he intends to terminate the insurance contract because of default, the failure of the mortgagee to demand payment will result in the termination of the insurance agreement. In view of the foregoing the guarantee of payment by the United States is conditional and is not such as to constitute a legal investment under RSA 387:6I as we construe that section. We believe that legislation is necessary if bonds so insured are to qualify as legal investments.

NEW HAMPSHIRE LAW LIBRARY

OCT 01 1998

CONCORD, N.H.

Mr. James W. Nelson

-2-

This conclusion is underscored by the specific authorizations in Paragraphs IV and V of RSA 387:4, relating to the legality of loans insured by the Federal Housing Commission and loans insured by the United States Government through the Secretary of Agriculture.

Very truly yours,

Elmer T. Bourque
Assistant Attorney General

ETB/lr